

Questions and Answers: Transition to WIA

This information is provided as a public service by the Virginia Employment Commission. It represents the Commission's best effort to provide useful information in a timely manner. VEC will update this material as often as necessary to address Virginia's experience with WIA.

These questions and answers are not official policy, so please note that when official policies are posted, they will automatically take precedence over this guidance. Any changes to these answers or the addition of new questions will be highlighted in red and/or dated.

If you have any questions regarding the application of a question or answer to your particular circumstances, please contact the Virginia Employment Commission, WIA Unit, at 804-786-2171 or jpowers@vec.state.va.us.

TRANSFER OF FUNDS

What JTPA funds can be transferred or carried forward into WIA?

Prior to closeout of the JTPA program, states have been requested to identify those JTPA funds by PY 98 and PY 99 funding streams that will not be utilized for closeout, for the local portion of the two percent WIA transition planning, or for PY 99 JTPA operations. Any PY 98 and PY 99 funds that are not used for program operation, for transition planning during the current year, as well as any funds that are not needed for JTPA closeout, may be carried forward into WIA. There is no limit on the amount that may be carried forward. If there is an over- or underestimation of the transferred funds necessary for remaining JTPA closeout activities, a final adjustment will be made transferring funds back to JTPA or forward to WIA at time of final closeout by DOL. The adjustment will be based on the State's final expenditure reports.

Where is the two percent transition/planning money...who got it?

Those funds were transferred to the Virginia Employment Commission and were used by that agency for transition and planning activities or were sent out to the 17 local areas. The local government that is the grant recipient in each local area received \$25,000 for local planning activities.

How will the transferred JTPA funds be allocated to WIA activities?

VEC will transfer the funds into the WIA funding streams in the following manner:

- Local Title II-A funds will be transferred to the local adult funding stream;
- Local Titles II-B and II-C funds will be transferred to the local youth stream;
- Local Title III funds will be transferred to the local dislocated worker funding stream;
- Rapid Response funds will be carried forward as Rapid Response funds.
- Other Title III Governor's Reserve funds will be carried forward to support Statewide Rapid Response activities, and Statewide employment and training activities;
- The 5% set-aside for incentive grants, technical assistance and capacity building will be carried forward as statewide activity funds. Any of these funds that have already been awarded to SDAs but have not been spent will continue to remain available for local level expenditure (**Note:** There is no administrative cost limitation on incentive grants under JTPA or WIA.);
- The 5% set-aside for services to older individuals under section 204(d) of JTPA will be carried forward as local adult funds if the funds have already been distributed to the SDAs under JTPA. Where such funds were not distributed to the SDAs, funds not needed for completion of services to on-board participants will be carried forward as Statewide activity funds;
- Any remaining funds from the 20% of the eight percent (8%) set-aside for education coordination will be carried forward as Statewide activity funds; and
- The 80% of the 8% will be for education and training services to participants. JTPA allowed these funds to be distributed to either SDAs or local education agencies. If the funds were distributed to local SDAs, they are to be carried forward as local youth and adult funds in the same proportion as the youth and adult contribution. When the funds were distributed to local education agencies, any remaining funds that are not needed for completion of already on-board participants are to be carried forward as statewide activity funds.

Do the JTPA carryover funds have to be tracked differently than WIA funds?

Once the JTPA funds have been transferred, the WIA rules and regulations apply and they are no longer subject to any of the JTPA closeout procedures. However, the funds will still have to be separately tracked and reported by year of appropriation.

Will the three-year period of expenditure be continued for PY 1999 funds?

Yes. All State JTPA funds, including those allotted for PY 1999, are available for expenditure in the program year obligated and the two succeeding program years whether the State is operating under JTPA or WIA. However, the use of funds, including administrative cost limits, must comply with the program rules of the program (JTPA or WIA) year in which they are expended.

What about the new LWIBs that were created? Will they receive carryover funds?

Yes. In areas that have changed from the former JTPA/SDA configuration, new LWIBs shall negotiate a level of funds that will follow jurisdictions from their "old" SDAs to their new workforce areas. If the local boards are unable to successfully negotiate fair amounts of carryover funds to new LWIAs, then the Virginia Employment Commission will assist with the resolution of the issue.

How much of the JTPA transferred funds can be used for administration?

For each program year of funds, each local area may take 10% of all of the funds carried forward for administrative costs.

Can JTPA funds be used for WIA activities, using WIA rules, and using WIA negotiated outcomes, but retain their 20% administrative cost category limit because they are still JTPA?

No. As of July 1st, Virginia will go to full WIA implementation and all WIA rules will apply including the 10% administrative cost limit regardless of the fact that PY 99 funds were JTPA.

What happens to the JTPA administrative funds when they are transferred into WIA?

They are simply WIA funds. All funds carried over from JTPA to WIA become "whole" dollars for WIA purposes and must be used consistently with WIA rules, including the 10% local administrative cost limitations.

Will WIA funds be used for incentive grants for PY99 JTPA performance?

There is nothing in the statute that would prohibit WIA funds from being used to award incentive grants for PY 99 JTPA performance. A State may use funds from the 15% set aside consistent with its plans for implementation of WIA and one of the required uses of the 15% is to provide incentive grants for local areas. However, since Virginia has created new Workforce Investment Areas, with new Workforce Investment Boards and a new service delivery system, the disbanded system under JTPA will not receive incentive awards using WIA funds based on PY 99 JTPA performance.

What about new WIA funds...how will PY 2000 funds be allocated to the local areas—with or without hold harmless?

During the first year of WIA implementation, Virginia will allocate Title I funds according to the federal formula set forth in the law—based on 1/3 allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment, 1/3 based on the relative excess number of unemployed and 1/3 based on the relative number of disadvantaged adults. Although the WIA does not allow hold harmless for localities during the first two years, the DOL has issued guidance that allows the Governor the option to use the hold harmless provision for allocating WIA funds during the first year. But in Virginia, where local elected officials have increased the number of local areas from 14 SDAs to 17 LWIBs, the hold harmless provision will not be applied. With the new geographical configurations, current and real need of each local area, based on the federal formula, will drive the amount of the allocation. Once a history is established over the next two years, WIA allows a hold harmless application, which will minimize disruptions of services in the new system.

TRANSFER OF PARTICIPANTS FROM JTPA TO WIA

What happens to enrolled JTPA participants on June 30, 2000?

All enrolled JTPA participants must be grandfathered into WIA in such a way that the transition is seamless. This requirement for “seamless services” allows local Workforce Investment Boards (LWIBs) to ask existing JTPA deliverers of services to continue providing services to carryover JTPA participants, even if

they are not certified or designated to provide those services under WIA. Virginia will allow LWIBs to make the decision as to how to implement a seamless system of services for all transferred JTPA participants. All arrangements for continuation of current participants and associated service delivery programs should be worked out as far in advance as possible via local agreements and included in the local area plan to be approved by the Governor.

What if the service deliverer does not want to continue to provide services after June 30th?

If agreement cannot be reached with a service provider for the continued provision of services, the LWIB shall then develop an agreement with another service deliverer to provide ongoing services to transitioned participants. In such cases, sole source contracting may be an appropriate means to ensure continuation and completion of services.

It will be the responsibility of the LWIB to make every effort to ensure that participants are unaware of any change in contractual arrangements. It shall be a seamless transition for the participant.

What method shall be used to contract for continued services for transferred JTPA participants?

LWIBs may terminate existing JTPA agreements and issue a new agreement, or they may modify existing agreements to extend the period of performance until the services to the covered JTPA participants are completed. Modification of existing agreements is probably the easier and cheaper of the two choices. If the local areas modify existing agreements, the following shall be changed:

- The contractual designation from JTPA to WIA;
- The number of participants to be served to reflect the actual number of JTPA participants;
- The level of funding to reflect the actual reduced amount required to serve the specified number of participants;
- Where necessary, the designated awarding agency;
- Where necessary, the new geographical configuration;
- The length of the agreement.

What if transferred JTPA participants are not eligible under WIA?

They shall be able to complete the services specified in their Individual Service Strategy, even if they are not eligible under WIA.

What if the services outlined in the JTPA Individual Service Strategy (ISS) are not allowable under WIA?

JTPA participants shall be allowed to complete all JTPA services specified in their ISS in accordance with an established timeline, whether or not those services are allowable under WIA.

What if a transferred JTPA participant is attending a training program that is not certified or approved under WIA?

The JTPA participant can attend the training for the duration of the scheduled plan, regardless of whether the training provider seeks certification under WIA. Any continued services beyond or in addition to the JTPA plan of services must be provided under WIA rules.

Is there a deadline under WIA for JTPA participants to finish their training and find employment?

Although there is no specific time limit to continued participation under WIA, LWIBs shall establish reasonable timelines relative to the completion of ISS activities of each transferred JTPA participant. In addition, after the shift to WIA no additional JTPA services may be added to the contract or to the participant's ISS. Any changes to the ISS must be done under the new WIA rules, with full approval and guidance from the appropriate one-stop operator or WIA service deliverer.

What about enrolled JTPA participants who have not yet started to receive services?

Those participants who are enrolled, but have not yet received JTPA training services, except for initial assessment, should also be grandfathered into WIA. These participants should be further assessed, if necessary, and provided services under a WIA service strategy.

Should tuition-based costs be pro-rated between JTPA and WIA for participants in training programs that span the June 30th/July 1st changeover?

No, that is not necessary. The tuition should be paid when due and charged to JTPA if paid before June 30th and to WIA if paid after July 1st. Whenever possible, the JTPA system should make every effort to pay for training that was obligated under JTPA.

What about the 8% coordination projects...are those participants also grandfathered into WIA?

Yes, as long as participants have a specific service plan on file that has not yet been completed as of June 30th, 2000. If the service deliverer declines to continue to provide services, another service deliverer or the one-stop operator in the local area must serve these participants, with every attempt to deliver seamless services.

Should JTPA programs stop enrolling individuals at some point prior to changing to WIA?

There is no Federal guidance on this issue. The JTPA system absolutely cannot obligate funds beyond June 30, 2000. After July 1st, WIA funds can then be used to see JTPA participants through to completion of their employment and training plans. All arrangements for continuation of current participants and associated service delivery programs should be worked out as far in advance as possible via local agreements and included in the local area plan to be approved by the Governor.

If the geographic composition of a service area is changed, how will JTPA participants be “assigned” to a new local workforce investment area (LWIA)?

Virginia went from 14 SDAs to 17 LWIAs, so this will certainly be an issue. The operative words here are “customer choice.” That means that the customer may prefer to continue to receive services under the old service deliverer, even though the customer lives within the geographical boundaries of a new LWIA. By the same token, the customer may choose to be served by the new workforce area, because it is more convenient. In Virginia, this will be a customer choice issue, but once decided, the customer may not change his/her mind after July 1st, 2000 as long as they are receiving JTPA services. Once terminated as a transferred JTPA participant, any future services would be provided under WIA rules.

Who is responsible for JTPA participant follow-up and reporting?

The WIA one-stop operator becomes responsible for follow-up for all JTPA participants terminated between April and June of 1999. The results of the follow-up become part of the JTPA record. If no other services other than JTPA follow-up and reporting were provided by the WIA system, then don't count this participant or the follow-up results in WIA reports.

Geographic residence of the terminated JTPA participant will determine which LWIB will take over responsibility for follow-up reporting, follow-up services and records retention.

Those JTPA participants that are grandfathered into WIA, will receive follow-up services under WIA rules and reporting procedures.

What JTPA participant records are kept after June 30th....and for how long?

All participant records, including application, eligibility determinations, activity records and termination/follow-up records, must be maintained by each recipient/sub recipient for not less than three years from the close of the applicable program year. In Virginia, the record retention clock starts at closeout of the fiscal year in which the participant was terminated. In Virginia, final JTPA closeout by the local areas will be October 31st, 2000, so that is when the clock starts for PY1999 records.

All records of eligible applicants that were not selected for JTPA participation must also be maintained by each recipient/subrecipient for not less than three years from the close of the applicable program year. The record retention clock starts at the end of the fiscal year in which the eligibility determination was made.

In addition, if there is any litigation, audit or claim involved, the records must be kept by the sub recipient for as long as necessary to finally resolve the issue.

The one-stop operator or any new service provider under WIA shall receive a full copy of all files of transferred JTPA participants. Records shall be duplicated and the original set be retained with the original provider to ensure that correct information is available if issues arise at a later date.

Who pays for the storage of records, JTPA or WIA?

The GETD will require as part of the subrecipient closeout plan that records storage is included as a JTPA expense for a three-year period of time. If record storage is required beyond the three years, for whatever reason, non-Federal local funds will have to cover any costs of the storage. The name, address, and telephone number of an individual who can be contacted shall be provided to the Virginia Employment Commission, in case questions arise after JTPA closeout regarding the information maintained in those records.

If any problems arise as to the where, what, when and how of records retention, the GETD will step in to resolve those problems until December 31st, 2000. After that, the Virginia Employment Commission will resolve any local issues that may arise.

Will there be an MIS system up and running on July 1st to support WIA data collection?

That is the plan! Virginia has joined a Consortium of West Virginia, Maryland and Pennsylvania to build upon the Pennsylvania system that is already in use in that state. Much needs to be done, but every effort is being made by the four states to meet the full implementation deadline of July 1st, 2000.

TRANSFER OF EQUIPMENT AND SUPPLIES

What equipment and supplies purchased under JTPA shall be transferred to WIA?

Federal regulations make it sound more complicated than it is. It really boils down to: all usable property, regardless of value, must be made available to WIA.

It should be noted that any equipment purchased with CareerConnect funds by the Governor's Employment and Training Department (GETD) and by VEC was purchased with funds other than JTPA, so it is not included in this guidance. GETD and VEC will have to figure out what they want to do about that equipment as it pertains to WIA.

What if the WIA system does not want or need equipment or supplies that are required to be transferred to WIA?

The JTPA system would have the responsibility of disposing of it according to regulations. If sold before closeout on October 31st, 2000, the proceeds reimburse the SDA, which has the effect of freeing up more money to be transferred to WIA. If sold after October 31st, the proceeds go to the Feds (ETA), which has the effect of losing money for Virginia. It must be disposed of at "fair market value".

What about equipment and supplies worth less than \$5,000?

In Virginia, **all** equipment and supplies that are still useful will be retained for use in the WIA system. Local SDA representatives and WIA representatives should work together to identify what equipment and supplies will remain in use, and what equipment is unusable.

All items of equipment or property with a fair market value of less than \$5,000 that are not needed or wanted by the WIA system may be retained, sold or otherwise disposed of with no further obligation to the JTPA program, preferably to be used by other Federally or non-Federally funded programs.

Who gets the equipment and supplies?

LWIBs will have the responsibility of ensuring that the transferred equipment and supplies are used to best advantage in their local areas to implement the local one-stop delivery system.

Special attention shall be given to those SDAs that were split up to form new LWIBs. Representatives of both systems must ensure that an appropriate quantity of equipment and supplies follow jurisdictions to their new LWIBs. The Virginia Employment Commission will assist with any disputes as to the equitable distribution of JTPA equipment and supplies to new LWIAs.

What about inventory and inventory disposition records...how long must they be kept?

Those records must be kept for three years from the date of the local JTPA closeout.

**JTPA GRIEVANCES, COMPLAINTS AND AUDITS
AFTER JUNE 30, 2000**

How do the new local LWIBs deal with any audit problems or complaints and grievances that emerge after the old JTPA system has expired on June 30, 2000?

By law, Virginia must continue to provide a system for receiving complaints and dealing with audits for up to one year after the expiration of the JTPA program on June 30, 2000. Prior to JTPA closeout, which must occur by December 31st, 2000, the cost of operating the grievance/complaints systems will be charged to JTPA and will be handled by remaining JTPA closeout staff (GETD and local SDA staff). A contact list of State JTPA closeout staff will be available until December 31, 2000. After the closeout of JTPA, the VEC and local boards must assume responsibility for handling complaints and grievances for the remainder of the required one-year period.

For example, if administrative findings are associated with an organization that will continue to administer programs for the local area and the administrative findings would affect WIA performance, the SDA and subsequently the LWIB must continue follow-up of corrective actions.

After JTPA closes out, how will any costs associated with audits, complaints and grievances be paid?

Costs may be charged to WIA until the end of the required one-year period. After that, only those costs associated with appeals that are resolved in a timely manner will be allowable costs to WIA, with a final deadline of August 31st, 2001. All costs will be applied to the local WIA budget...there is no State pot of money for this. After the August 2001 deadline, only non-Federal funds can be used to resolve JTPA issues or disputes.

What does that mean...a timely manner?

Administrative findings must be resolved within the six-month time frame allowed. Audit reports are to be completed and submitted within nine months from the end of an entity or organization's fiscal year, and resolved within six months of submission. If an audit is not completely resolved within the six-month resolution period, any staff costs associated with audit resolution after the six-month resolution period are to be charged to a non-Federal source. The costs associated with the conduct of a hearing as well as for its preparation are allowable if the hearing is held within 30 days from the date of the appeal and a decision is rendered within 60 days from the appeal date.

When successor WIA entities are required to resolve audit findings after JTPA closeout has been completed, the cost of these activities is to be treated as an allowable WIA administrative cost if completed within the allowable time periods.

Are there any other costs that can't be paid by JTPA and/or WIA?

Costs associated with employee complaint system outcomes, such as back wages, contract disputes, etc., must be paid from a non-Federal source. For example, an SDA staff member files a grievance alleging wrongful termination and requests back wages from the SDA. The SDA loses the case and is ordered to pay an amount of \$8,000 in back wages. Although the legal and staff costs associated with the case can be charged first to JTPA and, after JTPA closes out, to the WIA program, the amount owed the staff member for back wages must be paid from a non-Federal source.

Any costs that were disallowed under JTPA can certainly not be paid by WIA. All disallowed costs must be paid with local, non-federal funds, with the liability assigned to the agency that had responsibility for the disallowed expenditures.

Also, DOL stresses that any costs that come in after final State closeout on December 31st 2000, that were not stated in the JTPA closeout report, and are other than allowable costs associated with audits, complaints or grievances, will not be paid by DOL, and cannot be charged to WIA. The local responsible entity will become liable for those costs.

How long should records be kept of complaints, audit or grievance resolutions?

Three years from the date of resolution.

TRANSFER OF RESPONSIBILITY FROM PICS TO LWIBS

Can the PICs or their designees sign contracts before June 30th that obligate the LWIB beyond July 1st?

No. All JTPA contracts will end on June 30th, 2000. No contracts shall be signed or shall continue that will obligate WIA funds beyond that date. JTPA closeout procedures will deal with any contracts or leases that must be terminated due to the ending of JTPA, so that those issues do not become problems for the new LWIBs.

The above guidance does not preclude a new LWIB from working with the existing PIC prior to June 30th to continue or modify an existing JTPA contract or lease if it is in the best interests of the new local one-stop system. It is certainly possible that the LWIB will choose to modify an existing JTPA contract to continue under WIA, but that will be the LWIB's decision.

It is recommended that a certified LWIB work closely with the existing PIC to ensure a seamless transition and for optimal benefit to the new one-stop system.

Can the LWIB meet before it has been certified by the Governor?

The LWIB does not have the authority to make binding decisions until it has been certified, but interested members of the community can certainly meet with the Chief Local Elected Official to begin to identify planning priorities prior to certification.